



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Director

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO CHEMICAL LIME COMPANY

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Chemical Lime Company, for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Chemical Lime Company" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the structure at 2093 Big Stony Creek Road, located in Ripplemead, Virginia.

An Agency of the Natural Resources Secretariat

8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "Permit" means the Title V Permit, which became effective June 10, 2003, and expires June 10, 2008.
10. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Chemical Lime Company owns and operates a facility in Ripplemead, Virginia. This facility is the subject of the Permit.
2. DEQ has noted violations of the Air Pollution Control Law and Regulations. These violations, noted in a Notice of Violation issued by DEQ June 30, 2004, include:

On May 12, 2004, staff conducted a site visit of the Chemical Lime Company facility in response to a fugitive dust complaint. During this visit, staff observed excessive fugitive emissions stemming from the following points: two stone transfer conveyor belts and one fly ash transfer pipe. In addition to these sources of fugitive emissions, staff observed the fuel storage area to be covered in approximately ten inches of coke/coal dust. Staff informed the facility that a recent complaint was the basis for this site inspection and that the coke/coal dust was the cause. Based upon staff's observations, it has been determined that the Chemical Lime Company was not taking the appropriate measures to reduce the potential for fugitive emissions from the aforementioned areas.

On June 9, 2004, staff conducted a follow-up visit of the Chemical Lime Company facility. During this site-visit, staff observed the haul roads to be dry and producing excessive fugitive emissions. Staff was informed by the facility contact that the water truck was inoperable. The facility stated that in order to reduce the fugitive emissions observed, they would utilize the mine road water truck for the duration of repairs on the primary water truck.

The observations above are cited under the following regulations and the applicable Permit Conditions:

Condition III.A.3, of the June 10, 2003 Title V Permit, states no owner or operator shall cause or permit any materials or property to be handled, transported, stored, or used without taking reasonable precautions to prevent the material from becoming airborne.

Condition III.A.4, of the June 10, 2003 Title V Permit, states that a facility shall at all times, control fugitive dust by wet suppression or the equivalent and shall be operated at maximum design.

Section 9 VAC 5-50-90 of the State Air Pollution Board Regulations state that an owner or operator, shall at all times, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment or monitoring equipment, in a manner consistent with good air pollution control practice of minimizing emissions.

3. Chemical Lime Company is working with DEQ staff to resolve the aforementioned violations.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, and after consideration of the factors set forth in Va. Code § 10.1-1186.2, orders Chemical Lime Company, and Chemical Lime Company agrees, to perform the actions described below and in Appendices A and B of this Order. In addition, the Board orders Chemical Lime Company, and Chemical Lime Company voluntarily agrees to pay a civil charge of **\$2,800.00** in settlement of the violations cited in this Order.

\$2,800.00 of this civil charge shall be paid within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include Chemical Lime Company's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Chemical Lime Company, for good cause shown by Chemical Lime Company, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Chemical Lime Company by DEQ on June 30, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any

additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. By entering into this Order, Chemical Lime Company neither admits nor denies the factual findings or conclusions of law contained herein. For purposes of this Order and subsequent actions with respect to this Order, Chemical Lime Company agrees not to challenge the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Chemical Lime Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Chemical Lime Company declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Chemical Lime Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Chemical Lime Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Chemical Lime Company shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Chemical Lime Company shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Chemical Lime Company. Notwithstanding the foregoing, Chemical Lime Company agrees to be bound by any compliance date, which precedes the effective date of this Order.
- 11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Chemical Lime Company. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Chemical Lime Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
- 12. By its signature below, Chemical Lime Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 8th day of NOVEMBER, 2004.

Robert G. Bumpley
For Robert G. Bumpley, Director
Department of Environmental Quality

Chemical Lime Company voluntarily agrees to the issuance of this Order.

By: Richard L. Werner

Date: 11-03-04

Commonwealth of Virginia

City/County of Giles

The foregoing document was signed and acknowledged before me this 3rd day of
November, 2004, by Richard L. Werner, who is
(name)

Plant Manager of Chemical Lime Company, on behalf of the Corporation.
(title)

Colletta Mabry
Notary Public

My commission expires: August 31, 2005

APPENDIX A

Chemical Lime Company shall:

1. Within **30 days** from the effective date of the Order, submit to the DEQ accurate, up to date documentation demonstrating that all employees have been trained in Operation and Maintenance procedures relevant to their job responsibilities.
2. Within **90 days** from the effective date of the Order, submit to the DEQ accurate, up to date documentation demonstrating that the wet suppression systems for the facility have been serviced and are operating at maximum potential.
3. Within **90 days** from the effective date of the Order, submit to the DEQ accurate, up to date documentation demonstrating that all hatches and doors are closed for the during normal equipment operation.
4. Within **90 days** from the effective date of the Order, submit to the DEQ accurate, up to date documentation demonstrating that a preventative maintenance program has been implemented for the wet suppression systems on the stone belt conveyors and the baghouse collection systems.